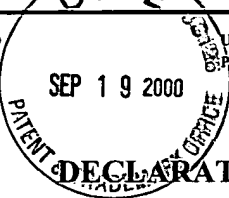


|   |                        |              |
|---|------------------------|--------------|
|  <p>0010/PTO<br/>Rev. 6/95</p> <p>U.S. Department of Commerce<br/>Patent and Trademark Office</p> <p><b>DECLARATION FOR<br/>UTILITY OR DESIGN<br/>PATENT APPLICATION</b></p> <p><input type="checkbox"/> Declaration Submitted with Initial Filing      OR      <input checked="" type="checkbox"/> Declaration Submitted after Initial Filing</p> | Attorney Docket Number | 21216-04993  |
|   | First Named Inventor   | Rohit Sharma |
|   | COMPLETE IF KNOWN      |              |
|   | Application Number     | 09/580,029   |
|   | Filing Date            | May 26, 2000 |
|   | Group Art Unit         | 2784         |
|   | Examiner Name          | Unassigned   |

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

NETWORK PERFORMANCE MONITORING AND RESTORATION BASED ON TRANSMISSION CODE VIOLATIONS

the specification of which

(Title of the Invention)

☐ is attached hereto

OR

☒ was filed on 05/26/2000 as United States Application Number or PCT International

Application Number 09/580,029 and was amended on (MM/DD/YYYY) [ ] (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37 Code of Federal Regulations, § 1.56.

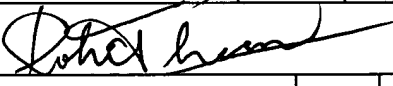
I hereby claim foreign priority benefits under Title 35, United States Code § 119 (a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365 (a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

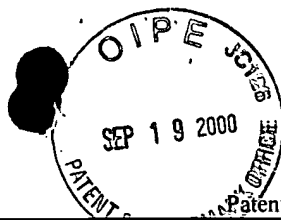
| Prior Foreign Application<br>Number(s) | Country | Foreign Filing Date<br>(MM/DD/YYYY) | Priority<br>Not Claimed  | Certified Copy Attached? |                          |
|--|---------|-------------------------------------|--------------------------|--------------------------|--------------------------|
|  |         |                                     |                          | YES                      | NO                       |
|  |         |                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|  |         |                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|  |         |                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|  |         |                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|  |         |                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

☐ Additional foreign application numbers are listed on a supplemental priority sheet attached hereto:

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

| Application Number(s) | Filing Date (MM/DD/YYYY) | <input type="checkbox"/> Additional provisional<br>application numbers are<br>listed on a supplemental<br>sheet attached hereto. |
|-----------------------|--------------------------|--|
| 60/136,624            | 05/27/1999               |  |

| DECLARATION  |   |   |                                      | Page 2         |                     |
|--|---|---|--------------------------------------|----------------|---------------------|
| <p>I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.</p> |   |   |                                      |                |                     |
| U.S. Parent Application Number   | PCT Parent Number   | Parent Filing Date (MM/DD/YYYY)   | Parent Patent Number (if applicable) |                |                     |
|  |   |   |                                      |                |                     |
| <input type="checkbox"/> Additional U.S. or PCT international application numbers are listed on a supplemental priority sheet attached hereto.   |   |   |                                      |                |                     |
| <p>As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:</p>  |   |   |                                      |                |                     |
| Name   |   | Registration Number   | Name                                 |                | Registration Number |
| <b>Greg T. Sueoka</b><br><b>Kirk A. Gottlieb</b>   |   | <b>33,800</b><br><b>42,596</b>  | <b>Edward A. Vangieson</b>           |                | <b>44,386</b>       |
| <input type="checkbox"/> Additional attorney(s) and/or agent(s) named on a supplemental sheet attached hereto.   |   |   |                                      |                |                     |
| <p>Please direct all correspondence to:</p> <p style="text-align: center;"> <b>Kirk A. Gottlieb</b><br/> <b>Fenwick &amp; West LLP</b><br/> <b>Two Palo Alto Square</b><br/> <b>Palo Alto, CA 94306</b><br/> <b>U.S.A.</b> </p>  |   |   |                                      |                |                     |
| Telephone  | (415) 875-2414  |   | Fax                                  | (415) 281-1350 |                     |
| <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p>   |   |   |                                      |                |                     |
| Name of Sole or First Inventor:  |   | <input type="checkbox"/> A petition has been filed for this unsigned inventor |                                      |                |                     |
| Given Name   | Rohit   | Middle Initial  |                                      | Family Name    | Sharma              |
| Inventor's Signature   |  |   |                                      | Date           | Sept. 9 '00         |
| Residence: City  | Sunnyvale   | State   | CA                                   | Country        | United States       |
| Citizenship  | India   |   |                                      |                |                     |
| Mailing Address  | 970 Corte Madera Avenue, #312   |   |                                      |                |                     |
| Mailing Address  |   |   |                                      |                |                     |
| City   | Sunnyvale   | State   | CA                                   | Zip            | 94086               |
| Country  | United States   |   |                                      |                |                     |
| <input type="checkbox"/> Additional inventors are being named on supplemental sheet(s) attached hereto   |   |   |                                      |                |                     |



PTO/SB/ 10 (6-95) (modified)

Approved for use through 07/31/96. OMB 0651-0031

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

**VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(f) & 1.27(c))--SMALL BUSINESS CONCERN**Docket Number (Optional):  
21216-04993Applicant or Patentee: Rohit SharmaApplication or Patent No.: 09/580,029Filing Date or Issue Date: May 26, 2000Title: NETWORK PERFORMANCE MONITORING AND RESTORATION BASED ON TRANSMISSION CODE VIOLATIONS

I hereby declare that I am

☐ the owner of the small business concern identified below:☒ an official of the small business concern empowered to act on behalf of the concern identified below:NAME OF SMALL BUSINESS CONCERN ONI Systems Corp.ADDRESS OF SMALL BUSINESS CONCERN 166 Baypointe ParkwaySan Jose, CA 95134-1621

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in:

☐ the specification filed herewith with title as listed above.☒ the application identified above.☐ the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights in the invention must file separate verified statements averring to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

Each such person, concern or organization having any rights in the invention is listed below:

☒ No such person, concern, or organization exists.☐ Each such person, concern or organization is listed below:

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Michael A. DillonTITLE OF PERSON IF OTHER THAN OWNER Vice President & General CounselADDRESS OF PERSON SIGNING 166 Baypointe Parkway, San Jose, CA 95134-1621SIGNATURE DATE September 11, 2000

21216/04285/SF/5024265.1

**VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS**  
**(37 CFR 1.9(f) & 1.27(c))--SMALL BUSINESS CONCERN**

Docket Number (Optional):  
21216-04993

Applicant or Patentee: Rohit Sharma

Application or Patent No.: New Application

Filing Date or Issue Date: May 26, 2000

Title: Network Performance Monitoring and Restoration Based on Transmission Code Violations

I hereby declare that I am

☐ the owner of the small business concern identified below:

☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF SMALL BUSINESS CONCERN Optical Networks, Incorporated

ADDRESS OF SMALL BUSINESS CONCERN 166B Baypointe Parkway

San Jose, CA 95134-1621

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

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☒ the specification filed herewith with title as listed above.

☐ the application identified above.

☐ the patent identified above.

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☒ No such person, concern, or organization exists.

☐ Each such person, concern or organization is listed below:

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING \_\_\_\_\_

TITLE OF PERSON IF OTHER THAN OWNER \_\_\_\_\_

ADDRESS OF PERSON SIGNING 166B Baypointe Parkway, San Jose, CA 95134-1621

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_